

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

JAMES E. CUNNINGHAM,)	
Petitioner,)	Civil Action No. 7:15cv00585
)	
v.)	<u>FINAL ORDER</u>
)	
COMMONWEALTH OF VIRGINIA,)	By: Norman K. Moon
Respondent.)	United States District Judge

In accordance with the memorandum opinion entered this day, it is hereby **ORDERED** that Cunningham's 28 U.S.C. § 2254 petition is **DISMISSED without prejudice** and this action is **STRICKEN** from the active docket of the court.

Further, finding that Cunningham has failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c), a certificate of appealability is **DENIED**.

The Clerk is directed to send copies of this order and accompanying memorandum opinion to the petitioner.

ENTER: This 30th day of October, 2015.



NORMAN K. MOON
UNITED STATES DISTRICT JUDGE